

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Water conservation programs.

Existing law authorizes any public entity, as defined, that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity to, by ordinance or resolution, adopt and enforce a water conservation program to reduce the quantity of water used for the purpose of conserving the water supplies of the public entity. Existing law provides that a violation of a requirement of a water conservation program is a misdemeanor punishable by imprisonment in the county jail for not more than 30 days, or by fine not exceeding \$1,000, or both.

This bill would provide that a court or public entity may hold a person civilly liable in an amount not to exceed \$10,000 for a violation of a water conservation program ordinance or resolution, or certain emergency regulations adopted by the State Water Resources Control Board. This bill would provide that commencing on the 31st



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day after the public entity has notified the person of the violation, the person additionally may be civilly liable for an amount not to exceed \$10,000 plus \$500 for each additional day on which the violation continues. This bill would require civil liability imposed pursuant to these provisions to be paid to the public entity and to be expended solely for the purposes of the water conservation program. In addition to these remedies, this bill would authorize a public entity to enforce water use limitations by a volumetric penalty in an amount established by the public entity.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



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An act to amend Sections 375, 375.5, and 377 of, and to add Section 377.5 to, the Water Code, relating to water.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 375 of the Water Code is amended to read:

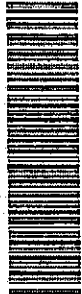
375. (a) Notwithstanding any other ~~provision of the law~~, any public entity ~~which~~ that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity may, by ordinance or resolution adopted by a majority of the members of the governing body after holding a public hearing upon notice and making appropriate findings of necessity for the adoption of a water conservation program, adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity.

(b) With regard to water delivered for other than agricultural uses, the ordinance or resolution may specifically require the installation of water-saving devices ~~which~~ that are designed to reduce water consumption. The ordinance or resolution may also encourage water conservation through rate structure design.

(c) For the purposes of this ~~section~~, chapter, "public entity" means a city, whether general law or chartered, county, city and county, special district, agency, authority, any other municipal public corporation or district, or any other political subdivision of the state.

(d) For the purposes of this section and subdivisions (b) and (c) of Section 377, "person" means any person, firm, association, organization, partnership, business, trust, corporation, company, or public agency, including any city, county, city and county, district, joint powers authority, or any agency or department of a public agency.

SEC. 2. Section 375.5 of the Water Code is amended to read:



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375.5. (a) A public entity, as defined by Section 375, entity may undertake water conservation and public education programs in conjunction with school districts, public libraries, or any other public entity.

(b) (1) A public entity may undertake water conservation and public education programs using an information booklet or materials for use in connection with the use or transfer of real estate containing up to four residential units. For the purposes of this subdivision, the public entity may use water conservation materials prepared by the department.

(2) It is the intent of the Legislature that on or before December 31, 2007, a review of the program be conducted to obtain information on both of the following matters:

(A) The extent to which public entities have undertaken water conservation and public education programs referred to in paragraph (1).

(B) The extent to which water conservation may be attributable to the implementation of water conservation and public education programs referred to in paragraph (1).

(c) A public entity may take into account any programs undertaken pursuant to this section in a rate structure design implemented pursuant to Section 375.

(d) The Legislature finds and declares that a program undertaken pursuant to this section is in the public interest, serves a public purpose, and will promote the health, welfare, and safety of the people of the state.

SEC. 3. Section 377 of the Water Code is amended to read:



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377. (a) From and after the publication or posting of any ordinance or resolution pursuant to Section 376, violation of a requirement of a water conservation program adopted pursuant to Section 376 is a misdemeanor. ~~Upon conviction thereof such person~~ A person convicted under this subdivision shall be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding one thousand dollars (\$1,000), or by both.

(b) A court or public entity may hold a person civilly liable in an amount not to exceed ten thousand dollars (\$10,000) for a violation of any of the following:

(1) An ordinance or resolution adopted pursuant to Section 376.

(2) An emergency regulation adopted by the board under Section 1058.5, unless the board regulation provides that it cannot be enforced under this section.

(c) Commencing on the 31st day after the public entity notified a person of a violation described in subdivision (b), the person additionally may be civilly liable in an amount not to exceed ten thousand dollars (\$10,000) plus five hundred dollars (\$500) for each additional day on which the violation continues.

(d) Remedies prescribed in this section are cumulative and not alternative, except that no liability shall be recoverable under this section for any violation of paragraph (2) of subdivision (b) if the board has filed a complaint pursuant to Section 1846 alleging the same violation.

(e) A public entity may administratively impose the civil liability described in subdivisions (b) and (c) after providing notice and an opportunity for a hearing. The public entity shall initiate a proceeding under this subdivision by a complaint issued pursuant to Section 377.5. The public entity shall issue the complaint at least 30 days



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before the hearing on the complaint and the complaint shall state the basis for the proposed civil liability order.

(f) In determining the amount of civil liability to assess, a court or public entity shall take into consideration all relevant circumstances, including, but not limited to, the nature and persistence of the violation, the extent of the harm caused by the violation, the length of time over which the violation occurs, and any corrective action taken by the violator.

(g) Civil liability imposed pursuant to this section shall be paid to the public entity and expended solely for the purposes of this chapter.

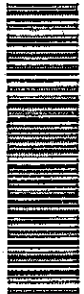
(h) An order setting administrative civil liability shall become effective and final upon issuance of the order and payment shall be made. Judicial review of any final order shall be pursuant to Section 1094.5 of the Code of Civil Procedure.

(i) In addition to the remedies prescribed in this section, a public entity may enforce water use limitations established by an ordinance or resolution adopted pursuant to this chapter, or as otherwise authorized by law, by a volumetric penalty in an amount established by the public entity.

SEC. 4. Section 377.5 is added to the Water Code, to read:

377.5. (a) A complaint or citation under subdivision (b) of Section 377 or subdivision (d) of Section 1058.5 may be issued by any of the following:

- (1) A code enforcement officer, as defined in Section 829.5 of the Penal Code.
- (2) A designee of the chief executive officer of a public entity authorized to adopt an ordinance or resolution under Section 375.
- (3) A designee of the chief executive officer of a city, county, or city and county.



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(b) For purposes of this section, the term "chief executive officer" includes a city manager, general manager, or other employee of the public entity who is the highest ranking officer or employee, other than a member of a multimember governing body, with responsibility for the operations of the public entity.

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